

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

UNITED STATES OF AMERICA,	:	
	:	
V.	:	Case No. 5:09-CR-9 (HL)
	:	
JONATHAN CHURCHWELL	:	
	:	
Defendant.	:	

ORDER

This matter is before the Court on the Motion to Withdraw from Further Representation (Doc. 56) (the “Motion”) filed by counsel for the Defendant, Larae Moore. The Magistrate Judge formerly assigned to this case mistakenly issued an Order (Doc. 59) granting the Motion, and thereafter appointed new counsel to represent the Defendant on appeal. That Order (Doc. 59) is hereby rescinded, and the Court orders as follows.

In her Motion, Ms. Moore seeks permission to withdraw because, on direct appeal of his conviction, the Defendant intends to assert a claim of ineffective assistance of trial counsel. Ms. Moore argues that her office would not be able to independently and objectively make a determination regarding its own effectiveness at trial. However, it is well settled that the Eleventh Circuit Court of Appeals “will not generally consider claims of ineffective assistance of counsel raised on direct appeal where the district court did not entertain the claim nor develop a factual record.” U.S. v. Bender, 290 F.3d 1279, 1284 (11th Cir. 2002). As the issue of Ms. Moore’s

effectiveness was neither raised nor developed at trial, this issue is moot.

Therefore, the Motion (Doc. 56) is denied.

However, Ms. Moore is no longer employed with the office of the Federal Defenders for the Middle District of Georgia (the “Federal Defenders Office”). While Ms. Moore is relieved of her obligations regarding the Defendant, representation of the Defendant on appeal remains the responsibility of the Federal Defenders Office.

So ordered, this 11th day of March, 2010.

s/ Hugh Lawson

HUGH LAWSON, Senior Judge

jch